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HOUSE BILL 385
By Bowers

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21,
relative to employment related discrimination.

WHEREAS, victims of crime and their families suffer from crime and its effects on a daily basis; and

WHEREAS, domestic crime against adults accounts for approximately 15 percent of total costs in the United States each year; and

WHEREAS, violence against women has been reported to be the leading cause of physical injury to women. It has a devastating impact on women's physical and emotional health and financial security; and

WHEREAS, the Department of Justice estimates that intimate partners commit on average 960,000 violent crimes against women every year; and

WHEREAS, employees in Tennessee who have been victims of crime too often suffer adverse consequences in the workplace as a result of their experiences as victims of crime; and

WHEREAS, victims of crime are particularly vulnerable to changes in employment, pay and benefits as a result of their victimizations, and are, therefore, in need of legal protection; and

WHEREAS, many rape victims lose their employment or are forced to quit their jobs following the crime and many battered women have lost a job due in part to the effects of domestic violence; and

WHEREAS, the availability of economic support is a critical factor in the ability of battered women to leave abusive situations that threaten them and their children; and

WHEREAS, according the National Institute of Justice, crime costs this country an estimated \$450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, all of which harm our nation's productivity and drain our nation's resources; and

WHEREAS, rape exacts the highest costs per victim of any criminal offense, an estimated total of \$127,000,000,000 per year nationwide; and

WHEREAS, other violent offenses take unacceptably high tolls on the national economy as well, including assault (\$93,000,000,000), murder (excluding arson and drunk driving deaths) (\$71,000,000,000), drunk driving (including fatalities) (\$61,000,000,000), and child abuse (\$56,000,000,000); and

WHEREAS, violent crime results in wage losses equivalent to one percent (1%) of all American earnings, and causes three percent (3%) of the nation's medical spending and fourteen percent (14%) of injury-related medical spending; and

WHEREAS, estimates demonstrate that employers pay between \$3,000,000,000 and \$5,000,000,000 annually to cover the cost of crimes against employees and their families; and

WHEREAS, according to legislation pending in the United States Senate, only 12 states have enacted statutes forbidding employers from taking adverse action against employees who have been victims of crime and must participate in the criminal justice process during working hours; and no state explicitly protects crime victims from other adverse action which may result from their experiences and status as crime victims; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Victims' Employment Rights Act of 2001".

SECTION 2. The purposes of this act are to:

(1) Promote the state interest in ensuring that victims and survivors of domestic violence, sexual assault, and stalking can recover from and cope with the effects of those crimes and participate in the criminal and civil justice processes without fear of adverse economic consequences from their employers;

(2) Minimize the negative impact on state commerce from dislocations of employees and decreases in productivity that may arise when employees are victimized by those crimes;

(3) Address the failure of existing laws to protect the employment rights of victims of domestic violence, sexual assault, and stalking and support the right of domestic violence, sexual assault, and stalking victims to employment free from discrimination; and

(4) Accomplish the purposes described in paragraphs (1), (2), and (3) in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SECTION 3. Tennessee Code Annotated, Section 4-21-102, is amended by adding the following new subdivision to be designated as follows, and by appropriately renumbering the remaining subdivisions of such section:

(4) "Employee" means any person employed by an employer, as defined in this section, on a full or part-time basis, for a fixed time period, on a temporary basis or as a participant in a work assignment as a condition of receipt of federal or state public assistance;

SECTION 4. Tennessee Code Annotated, Section 4-21-401, is amended by adding the following new subsection to be designated as follows and by renumbering subsection (b) as subsection (c):

(b) It is a discriminatory practice for an employer to fail to hire, refuse to hire or discharge any individual or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, of the individual (including a retaliation in any form or manner) because:

(1) The individual:

(A) Is or is perceived to be a victim of domestic violence, sexual assault, or stalking;

(B) Attended, participated in, or requested leave to attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic violence, sexual assault, or stalking of which the employee, or the son or daughter or parent of the employee, was a victim; or

(C) Requested an adjustment to a job structure or workplace facility, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, or installation of a lock or implementation of a safety procedure, in response to actual or threatened domestic violence, sexual assault, or stalking, regardless of whether the request was granted; or

(2) The action of a person whom the employee states has committed or threatened to commit domestic violence, sexual assault, or stalking against the employee, or the son or daughter or parent of the employee, disrupted the workplace.

(3) Domestic violence for purposes of this part means an offense that meets the elements in Section 40-14-109(a)(2) and (3).

SECTION 5. Tennessee Code Annotated, Section 4-21-306(a), is amended by deleting subdivision (7) and by substituting instead the following:

(7) Damages, to include:

(A) Damages equal to the amount of wages, salary, any employment benefits or other compensation denied to or lost by such employee by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) Compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses; and

(C) Such punitive damages, up to three (3) times the amount of actual damages sustained, as the commission shall determine to be appropriate.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.